

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARISA DESCHINE,

Plaintiff,

vs.

CIV 14-0018 MV/KBM

THE UNITED STATES OF AMERICA,

Defendant.

**ORDER GRANTING DEFENDANT'S
EMERGENCY MOTION FOR PROTECTIVE ORDER**

THIS MATTER came before the Court on Defendant's Emergency Motion for Expedited Briefing and Protective Order (*Doc. 35*). The Court previously granted this motion in part requiring Plaintiff to respond no later than Friday, September 5, 2014, (*Doc. 37*), which she did (*Doc. 39*), and the motion was fully briefed on September 15, 2014 (*Doc. 42*). Having reviewed the submissions of the parties, the Court finds that the Motion is well taken and will be granted.

This case arises from allegations of medical malpractice by Dr. Maureen Kidd. Plaintiff contends that Dr. Kidd was an employee of Defendant United States at the time of the alleged malpractice. Defendant maintains that Dr. Kidd was not an employee under the Federal Tort Claims Act and has filed a Motion to Dismiss (*Doc. 32*) and Motion to Stay Discovery (*Doc. 33*), neither of which is fully briefed at this time. In response to Defendant's motions, Plaintiff subpoenaed the deposition of Dr. Kidd, who is not a party to this case, to take place on September 22, 2014, in Beloit, Wisconsin (*Doc. 34; Doc. 35-1*), giving rise to the instant motion.

In an effort to protect her malpractice claims from a statute of limitations bar in the event Dr. Kidd is deemed not to have been an employee of the United States, Plaintiff filed a separate lawsuit styled *Deschine v. Kidd*, CIV 14-0762 KBM/GBW and has moved to consolidate it with this case (*Doc. 38*). Plaintiff appears to agree that the deposition of Dr. Kidd should be postponed in order to allow her the opportunity to become “fully engaged in this matter,” (*Doc. 39 at 5*). There appears to be no prejudice in delaying Dr. Kidd’s deposition until after a ruling on Defendant’s Motion to Stay Discovery.

IT IS THEREFORE ORDERED that Defendant’s Emergency Motion for Expedited Briefing and Protective Order (*Doc. 35*) is hereby granted and the Court hereby quashes the subpoena for deposition of Dr. Maureen Kidd scheduled for September 22, 2014.


UNITED STATES CHIEF MAGISTRATE JUDGE